



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN
~~DEPARTMENT OF~~
ATTORNEY GENERAL

Honorable Reuben Williams, Chairman
Board of Insurance Commissioners
Austin, Texas

Dear Sir:

Opinion No. O-3116

Re: May a surety company such as
Southern Guaranty Company, Ltd.,
become surety upon any bond
required by a city ordinance?

Your recent request for an opinion of this department upon the
above stated question has been received.

We quote from your letter as follows:

"Please advise this Department if, in your opinion,
a surety company such as the Southern Guaranty Company,
Ltd., Austin, Texas, organized under the provisions of
Chapter 16, Article 4982, Vernon's Revised Civil Statutes
of Texas, may become surety upon any bond required by
city ordinance."

"In this connection, we wish to call your attention
to paragraph 2 under Article 4982 which states such
corporations may 'Become sole guarantor or surety in or
upon any bond required to be given under the laws of this
State, any other statute to the contrary notwithstanding.'"

Article 4982, Vernon's Annotated Civil Statutes, reads as
follows:

"Any persons or association of persons, any state
banking corporation or any other domestic corporation, or
any corporation organized under the laws of any other
State, provided such foreign corporation complies with
the laws of this State relating to insurance other than
life, may exercise the following powers by complying with
the provisions of this sub-division:

"1. Qualify as guardian, curator, executor, administrator,
assignee, receiver, trustee by appointment of any court or
under will, or depository of money in court, without giving
bond as such."

"2. Become sole guarantor or surety in or upon any bond required to be given under the laws of this State, any other statute to the contrary notwithstanding."

We are informed that the Southern Guaranty Company of Austin, Texas, is an unincorporated joint stock company organized under Chapter 2, Title 105, of the Revised Civil Statutes of Texas, and has qualified, under Articles 4982 and 4983, Vernon's Annotated Civil Statutes and complied with the provisions of these statutes. The company has a permit from the Securities Division of the Office of the Secretary of State, and a permit from the Insurance Department authorizing said company to do business as provided by Article 4982.

For the purposes of this opinion, we assume that the Insurance Department is legally authorized to issue or grant a permit or license to the Southern Guaranty Company to do business under Article 4982 and that said company is legally authorized to qualify under Articles 4982 and 4983. However, this opinion is not to be construed as passing upon the authority of the Insurance Department to issue or grant the permit or license, above mentioned, nor the authority of the company involved to qualify under the provisions of Articles 4982 and 4983.

The answer to your question depends upon the meaning of the term "laws of this State" as used in Section 2 of Article 4982, supra. Does the term include a city ordinance? We think it does. A city ordinance was defined by the Court of Civil Appeals, at Amarillo, Texas, in the case of Choice, et al vs. City of Dallas, 210 S.W. 753, as follows:

"While an ordinance is not a law, in one sense of the word it is a local law, emanating from legislative authority and operative within its limited sphere as effectively as a general law of the sovereignty." (See also Words and Phrases, vol. 6, p. 5024; Second Series, vol. 3, p. 77.)

In 36 C. J. 964, Sec. 33, is found the following:

"The word 'law' does not ordinarily include ordinances, such as city or municipal or borough ordinances. However, 'law' is a broad term, and it may include or comprehend ordinances such as city or municipal or county ordinances. In one sense of the word, an ordinance is a local law, emanating from legislative authority and operative within its limited sphere as effectively as a general law of the sovereignty. So it is held that ordinances of a city are local laws and in a sense laws of the state."

As above stated, we believe that a city ordinance comes within the term "laws of this State" as used in the above mentioned statute. Therefore, we respectfully answer the above stated question in the affirmative.

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Trusting that the foregoing fully answers your inquiry, we are

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By /s/ Ardell Williams
Ardell Williams
Assistant

AW:RS-ds

APPROVED MAR 10, 1941

/s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

APPROVED OPINION
COMMITTEE BY

/s/ B.W.B. CHAIRMAN